

THE HONORABLE RICARDO MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KENNETH FLEMING, JOHN DOE, R.K., and T.D.,
Plaintiffs,

v.

THE CORPORATION OF THE PRESIDENT OF
THE CHURCH OF JESUS CHRIST OF LATTER-
DAY SAINTS, a Utah corporation sole, a/d/a
"MORMON CHURCH"; LDS SOCIAL SERVICES
a/d/a LDA FAMILY SERVICES, a Utah corporation,
Defendants.

NO. C04-2338 RSM

**MOTION FOR APPOINTMENT OF
LITIGATION GUARDIAN AD LITEM**

**NOTE ON MOTION CALENDAR:
FRIDAY, MAY 5, 2006**

I. STATEMENT OF RELEVANT FACTS

Plaintiff John Doe recently settled his claims in this matter. *See Declaration of Michael T. Pfau in Support of Motion for Appointment of Litigation Guardian ad Litem ("Pfau Decl."), ¶ 2.* The amount of the settlement with plaintiff John Doe is confidential. *Pfau Decl., ¶ 2.* Plaintiff John Doe is currently incarcerated in a Washington State Department of Corrections facility and his sentence is scheduled to end in October of 2006. *Pfau Decl., ¶ 3.* Plaintiff John Doe has a history of drug addiction. *Pfau Decl., ¶ 4.* Counsel for Plaintiff John Doe has received several telephone calls from plaintiff John Doe's wife, who has informed counsel that John Doe would not object to the appointment of his wife as a Limited Guardian of his Estate for purpose of releasing the settlement funds and management of the funds. *Pfau Decl., ¶ 5*

MOT. FOR APPTMNT. OF LITIGATION GUARDIAN AD LITEM- 1
(C04-2338 RSM)
161711

LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 676-7500 - FACSIMILE (206) 676-7575

II. LEGAL ARGUMENT

Considering the drug history, the current incarceration, and the phone calls from John Doe's wife, there are serious concerns that plaintiff John Doe's interests cannot be protected without pursuing the appointment of a Limited Guardian of the Estate of John Doe to manage the settlement funds from this litigation. Andrew Benjamin, an attorney who is approved by the Washington State Superior Courts to act as a guardianship and settlement guardian ad litem, is available to act as a Litigation Guardian ad Litem. *Pfau Decl.*, ¶ 6. If appointed as the Litigation Guardian ad Litem, Mr. Benjamin would conduct an investigation and provide a report to this Court within twenty-one days of his appointment regarding his opinion about whether Limited Guardianship proceedings should be commenced in the Washington State Superior Court to determine whether a Limited Guardian of the Estate of John Doe should be appointed to manage the settlement funds of John Doe from this lawsuit.

III. CONCLUSION

For all of the reasons discussed above, Andrew Benjamin or another competent person chosen by this Court, should be appointed Litigation Guardian ad Litem to provide an opinion about whether Guardianship Proceedings should be commenced in Washington State Superior Court to determine whether a Limited Guardian of the Estate of John Doe should be appointed.

RESPECTFULLY SUBMITTED this 19 day of April, 2006.

GORDON, THOMAS, HONEYWELL,
MALANCA, PETERSON & DAHEIM LLP

LAW OFFICES OF TIMOTHY D. KOSNOFF

By / s / Michael T. Pfau
Michael T. Pfau, WSBA No. 24649
mpfau@gth-law.com
Co-Counsel for Plaintiffs

By / s / Timothy D. Kosnoff
Timothy D. Kosnoff, WSBA No. 16586
timkosnoff@comcast.net
Co-Counsel for Plaintiffs

MOT. FOR APPTMNT. OF LITIGATION GUARDIAN AD LITEM- 2
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LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 676-7500 • FACSIMILE (206) 676-7575

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that on April 19, 2006, I electronically filed the foregoing **MOTION FOR APPOINTMENT OF LITIGATION GUARDIAN AD LITEM** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Thomas D. Frey and
Marcus Nash
STAFFORD FREY COOPER
601 Union Street, Suite 3100
Seattle, WA 98101-1374

DATED this 19th day of April, 2006.

/s/ Tanya Garbell
Assistant to Michael T. Pfau,